



South Florida Water Management District

MINUTES GOVERNING BOARD WORKSHOP

August 11, 2010

12:00 PM

District Headquarters - B-1 Auditorium

3301 Gun Club Road

West Palm Beach, FL 33406

Members Present:

Sandy Batchelor

Eric Buermann, Chair

Joe Collins

Jerry Montgomery

Kevin Powers

Glenn Waldman

Members Absent:

Charles Dauray

Shannon Estenoz

1. **Call to Order** - Eric Buermann, Chairman, Governing Board

Chair Buermann called the meeting to order at 12:05 p.m.

2. **Pledge of Allegiance** - Eric Buermann, Chairman, Governing Board

The meeting may go directly to Attorney Client Session and other agenda items will start no earlier than 1:30 PM

Joe Collins led the group in the Pledge of Allegiance.

Chair Buermann recessed to Attorney Client Session at 12:10 p.m.

Chair Buermann reconvened the meeting at 2:35 p.m.

3. **Approval of Minutes**

Approval of the Minutes for the July 14, 2010, Workshop and July 15, 2010, Regular Business Meeting held in West Palm Beach, Florida

Motion made by Jerry Montgomery, seconded by Kevin Powers to Approve the following item(s): 3

Vote called. Voting yes: Jerry Montgomery, Kevin Powers, Sandy Batchelor, Eric Buermann, Joe Collins, Glenn Waldman. Motion passed.

4. Agenda Addendum - Annette Carter, Director, Office of Governing Board & Executive Services

Annette Carter, Director, Office of Governing Board & Executive Services, read into the record:

Section 120.525, Florida Statutes, allows the District to change the published agenda for good cause shown, as determined by the presiding officer. The Chairman has determined good cause exists. These changes are being made in order to permit the Governing Board to accomplish necessary public business at this meeting and to reflect the items on the agenda that have been deleted, revised, added or postponed. These changes have been listed in the Addendum available at the entrance to this meeting room.

5. Abstentions by Board Members from items on the Workshop Agenda

Joe Collins abstained from Agenda Item 10.

6. Pull Items for Discussion from Consent Agenda

There were no items pulled from the Consent Agenda for discussion.

Everglades Restoration and Capital Projects

7. Water Quality Standards: Regional Water Quality Issues (part 4) - Linda Lindstrom, Director, Restoration Sciences Department (ext. 6820)

Linda Lindstrom, Director, Restoration Sciences, presented the fourth part in the Water Quality Standard series.

Ms. Lindstrom reported water quality is a challenge throughout the region due to changes to the natural system plus other factors such as population growth, intensive land use, stormwater runoff and atmospheric deposition and climate changes.

Ms. Lindstrom reported on the water quality issues and improvement action plans and efforts for the Kissimmee Chain of Lakes and River Basin, Lake Okeechobee watershed, St. Lucie and Caloosahatchee estuaries, the Everglades and Florida Bay. All areas face challenges with nutrient pollution by dealing with phosphorus and nitrogen concentrations.

Ms. Lindstrom explained that nutrient pollution is a problem nationwide and worldwide. The agency is very proactive and at the cutting edge in environmental engineering and science, exploring a wide variety of technologies, concepts, tools and strategies, and is applying some of the best minds to South Florida's water quality problems.

Mr. Powers commented on the concerns of not meeting the Total Maximum Daily Loads (TMDLs) by 2015 and reporting it to the legislature.

Kevin Carter, Technical Program Specialist, reported staff are working on the Lake Okeechobee Watershed Protection Plan which will address the TMDL process.

Ken Ammon, Deputy Executive Director, Everglades Restoration and Capital Projects, commented on reporting the challenges to the legislature and focusing on the TMDL goals.

Mr. Montgomery agreed that the agency needs to inform the legislature that TMDLs will probably not be met with existing technologies. The agency needs to focus on new technology to meet the TMDL goals, and based on financial concerns, prioritize the projects.

Mr. Powers also explained that in the prioritization to the legislature, the agency should establish a clear message of performance and realistic expectations.

Chair Buermann questioned the mercury in the Everglades and the Kissimmee Basin.

Mr. Carter explained the TMDL process for mercury.

Public Comment: Rosa Durando, citizen, commented on phosphorus loads and questioned how the District and the 298 Districts will handle this.

Public Comment: Charles Lee, Audubon, explained the varying levels of mercury in the water system.

Regulatory and Public Affairs

9. Fisheating Creek Wetland Reserve Program Update - Keith Fountain, Director of Protection, The Nature Conservancy

Keith Fountain, Director of Protection, The Nature Conservancy, reported on the Fisheating Creek Wetland Reserve Program. Mr. Fountain reported on the one million acres of restorable wetlands in the Northern Everglades.

Mr. Fountain explained the Northern Everglades Program objectives:

- hydrological restriction for the greater Everglades.
- permanent protection and linkage of high quality habitats, and
- ensure sustainability of Florida's cattle industry

Mr. Fountain then reported on the Fisheating Creek Special Project and the Wetland Reserve Program working with the Natural Resources Conservation Service, U.S. Fish & Wildlife, and Department of Defense. The Nature Conservancy is contributing \$89M to protect and restore 26,000 acres and 11 miles of Fisheating Creek.

Mr. Fountain reported on the benefits of the project and the role of the District in coordinating Northern Everglades projects.

Mr. Montgomery supports staff being out in the field and engaging with landowners in order to build relationships to promote these programs.

Mr. Powers also agrees with continued relationships with landowners.

Public Comment: Rosa Durando, citizen, commented on the pasture being improved and the constraints of the landowners.

Public Comment: Jane Graham, Audubon of Florida, stated Audubon fully supports this project.

10. Payment for Environmental Services - Benita Whalen, Deputy Director, Water Resource Regulation Department (ext. 2957)

Note: Joe Collins abstained from Agenda Item 10.

Benita Whalen, Deputy Director, Water Resource Regulation Department, presented information on the payment for the Environmental Services which included background information, the different approaches with the landowners (easement, cost-share and payment for environmental services--PES). Ms. Whalen reported on the PES initiatives which include:

- Time-limited federal research grants
- Term Land Retirement/Reservation
- Offset programs in water quality trading and mitigation banking renamed to PES
- St. Johns River Water Management Districts Lake Jessup Water Quality project
- Northern Everglades PES

Ms. Whalen then presented information on the Payment for Environmental Services for the Florida Ranchlands Environmental Services (FRESP) pilot projects and the lessons learned from this program. She also reported on the proposed PES Program concepts and funding timeline.

Ms. Whalen then reported on considerations the Board may have for the program:

Adaptive Management (incorporating lessons learned)
Dedicated multi-year funding source
Monitor performance/scale-up decision
Rent versus Own
Integration of large projects

Ms. Wehle said the District's economist will do a cost benefit analysis including water storage and/or nutrient removal, property ownership plus operations & maintenance. This information will be brought back to the Board for further discussions including funding.

Mr. Montgomery also commented on the complexity of the landowner's property generating economic return vs. environmental benefit.

Public Comment: Charles Lee, Audubon of Florida, urged the Board to move forward with the Nicodemus Slough property because it has so much of the infrastructure in place and it needs a small amount of design and construction for a water storage project.

Public Comment: Drew Martin, Sierra Club, supports this program and said water storage is crucial north of the lake.

11. Floridan Aquifer Monitoring Update - Peter Kwiatkowski, Director, Resource Evaluation Division (ext. 2547)

This item was deferred until September.

12. Public Comment

Due to the number of people attending the meeting requesting to provide public comment on the U.S. Sugar land acquisition and the budget, public comment was taken early in the meeting. Mr. Mike Smykowski, Budget Director, gave a brief presentation on the proposed budget prior to taking public comment.

Public Comment: Michael Collins, citizen, commented on the U.S. Sugar land acquisition and requested to wait until federal issues are resolved before moving forward with the purchase. He said going forward now would be irresponsible.

Public Comment: Patricia Curry, citizen, commented on the U.S. Sugar land acquisition and the parcels that are needed for Everglades restoration. She opposes the District's taxpayers paying for this purchase and commented on the costs for cleanup of the property.

Public Comment: Rosa Durando, citizen, commented the goal for Everglades restoration should be getting funding from the federal government.

Public Comment: Alex Larsen, citizen, commented on the purchase of Fisheating Creek and the U.S. Sugar land acquisition and supports preserving the land.

Public Comment: Jim Moran, citizen, thanked staff for their public service. He opposes the U.S. Sugar land acquisition.

Public Comment: Marianne Moran, Tea Party in Action, opposes the U.S. Sugar land acquisition and requested the Board postpone their vote. She provided a DVD of voice messages to the Board from citizens opposing the land acquisition.

Public Comment: John Marshall, Arthur Marshall Foundation, commented on the configuration of the land acquisition and explained the benefits of this land purchase. He supports this land acquisition.

Public Comment: Martha Musgrove, Marshall Foundation, supports the purchase of the land in Hendry County. She said these lands are critical for water quality standards and meeting water supply.

Public Comment: Sharon Waite, citizen, commented on the costs for cleanup of the U.S. Sugar land.

Public Comment: Charles Lee, Audubon of Florida, supports the U.S. Sugar and introduced Jane Graham who will be representing Audubon of Florida at our Board meetings.

Executive Office

13. Attorney Client Session

Attorney client session pursuant to Section 286.011(8), Florida Statutes (2009) to discuss strategy related to litigation expenditures and/or settlement negotiations in United States of America v. South Florida Water Management District, et al., United States District Court, Southern District of Florida, Case No. 88-1886-CIV-Moreno.

ATTENDEES: Governing Board Members S. Batchelor, E. Buermann, J. Collins, C. Dauray, S. Estenoz, R. Montgomery, K. Powers, G. Waldman; Executive Director C. Wehle; District attorneys S. Wood, S. Nall, C. Kowalsky, K. Rizzardi, K. Burns, J. Nutt, F. Bartolone, outside counsel D. Moore. (Sheryl G. Wood, ext. 6976)

Action Items (if any) Stemming from Attorney Client Session

Attorney client session pursuant to Section 286.011(8), Florida Statutes (2009) to discuss strategy related to litigation expenditures and/or settlement negotiations in United States of America v. South Florida Water Management District, et al., United States District Court, Southern District of Florida, Case No. 88-1886-CIV-Moreno. (Sheryl G. Wood, ext. 6976)

Sheryl Wood, General Counsel, reported no recommendation by the Governing Board for Agenda Item 13.

14. Attorney client session pursuant to Section 286.011(8), Florida Statutes (2009) to discuss strategy related to litigation expenditures and/or settlement negotiations in Friends of the Everglades, Inc. and Fishermen Against Destruction of the Environment, Inc. v. South Florida Water Management District, et al., United States Court of Appeals, Eleventh Circuit, Case No. 07-13829-HH; Miccosukee Tribe of Indians of Florida v. South Florida Water Management District, et al., United States District Court, Southern District of Florida, Case No. 98-6056-CIV-Lenard/Klein; and Friends of the Everglades v. South Florida Water Management District, United States District Court, Southern District of Florida, Case No. 98-6057-CIV-Lenard/Klein.

ATTENDEES: Governing Board Members S. Batchelor, E. Buermann, J. Collins, C. Dauray, S. Estenoz, R. Montgomery, K. Powers, G. Waldman; Executive Director C. Wehle; District attorneys S. Wood, S. Nall, C. Kowalsky, K. Rizzardi, J. Nutt, F. Bartolone. (Sheryl G. Wood, ext. 6976)

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Sheryl Wood, General Counsel, reported no recommendation by the Governing Board for Agenda Item 14.

17. Attorney client session pursuant to Section 286.011(8), Florida Statutes (2009) to discuss strategy related to litigation expenditures and/or settlement negotiations in Florida Wildlife Federation, Inc. v. South Florida Water Management District, United States Circuit Court of Appeals, 11th Circuit, Case Nos. 10-10886-EE; 10-11121-EE.

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Action Items (if any) Stemming from Attorney Client Session

Attorney client session pursuant to Section 286.011(8), Florida Statutes (2009) to discuss strategy related to litigation expenditures and/or settlement negotiations in Florida Wildlife Federation, Inc. v. South Florida Water Management District, United States Circuit Court of Appeals, 11th Circuit, Case Nos. 10-10886-EE; 10-11121-EE. (Sheryl G. Wood, ext. 6976)

Sheryl Wood, General Counsel, reported Attorney Client Session discussion on Agenda Item 17 was cancelled.

18. **Adjourn**

Chair Buermann adjourned the meeting at 5:10 p.m

Eric Buermann
Governing Board Chairman
South Florida Water Management District Governing Board

Recorded By:

Cathy Widness
Administrative Assistant Senior
Governing Board and Executive Services
SFWMD

Motion made by Jerry Montgomery, seconded by Glenn Waldman to Approve the following item(s): 18

Vote called. Voting yes: Jerry Montgomery, Glenn Waldman, Sandy Batchelor, Eric Buermann, Joe Collins, Kevin Powers. Motion passed.